vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.56 OF 1987

Girdharidas N. Dusija ... Plaintiff

V/s.

M/s.Kaydee Conduit Pipes & Ors. ... Defendants

Mr.U.J. Makhija for Plaintiff
None for Defendants

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **MARCH 28, 2006**

P.C.:

. The Plaintiff has filed the present suit against the defednants for recovery of an amount of Rs.50,000/-. Two bills of exchange were drawn in favour of the proprietory concern of the plaintiff-M/s.Metalreed Corporation by Defendant No.1 drawn by the proprietor of M/s.Kaydee Rolling Mills and accepted by the M/s.Kaydee Conduit Pipes. Each of the bills were for an amount of Rs.25,000/- each. When these bills were presented by the plaintiff they were dishonoured. Despite repeated demands made by the Plaintiff to the Defendants to repay the amount, the defendants have not complied.

2. During the pendency of the present proceedings, Defendant Nos.3 and 4 have attained majority. Defendant No.2 is the widow of the proprietor of Kaydee Rolling Mills. She has accepted the bills of exchange.

3. The plaintiff has produced the originals of the bills of exchange & the demand made by the Plaintiff.

4. No written statement has been filed by the defendants. However, the defendants were granted conditional leave to defend the suit on 20.4.1987 by directing them to deposit Rs.30,000/- in this Court. This Court had also directed that the amount if deposited, was to be invested in a nationalised bank. Unfortunately, the same has not been done by the Prothonotary and Senior Master. Thereby the Plaintiff has lost interest on the deposit. The only reason for not investing the said amount is that the defendants had mentioned in the praecipe that there was no order for investment. The Office of this Court is expected to check the orders passed by this Court rather than relying on the praecipes filed by the litigants or their advocates in order to ascertain whether investments are to be made.

5. In any event, the Plaintiff has proved the amount has remained outstanding and is, therefore, entitled to a decree. The suit is decreed as prayed for. The liability of Defendant Nos.3 and 4 is limited to the extent of the estate of their deceased father in their hands.

6. The Plaintiff is at liberty to withdraw the amount of Rs.30,000/- which has already been deposited.

7. Refund of Court fee as per Rules.

8. Parties to act on an authenticated copy of this order.